

MAIL STOP APPEAL BRIEF- PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Patent Application of Charles A. Eldering.

Conf. No.: 3387 : Group Art Unit: 1751
Appln. No.: 09/857,257 : Examiner: NGUYEN, TRI V.
Filing Date: 01 JUNE 2001 : Attorney Docket No.: T709-12
Title: Advertisement Auction System

**APPELLANTS' BRIEF IN SUPPORT OF THE APPEAL TO THE BOARD OF
PATENT APPEALS AND INTERFERENCES**

In response to the Final Rejection dated April 5, 2007, the Advisory Action dated August 17, 2007, and the Notice of Pre-Appeal Brief Review dated September 18, 2006, and further to the Notice of Appeal and Request for Pre-Appeal Brief Conference filed on August 31, 2007, Applicants hereby submit an Appeal Brief in accordance with 37 C.F.R. §41.37 for the above-referenced application.

This paper is being timely submitted by virtue of the accompanying Petition for Extension of Time (one-month), which extends the period available for reply through and including November 30, 2007.

(A) **PARTY IN INTEREST**

The real party in interest is Prime Research Alliance E., Inc., the Assignee of record, which is a wholly owned subsidiary of a privately-owned, non-publicly traded company.

(B) RELATED APPEALS AND INTERFERENCES

There are no prior or pending appeals, judicial proceedings or interferences known to appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

(C) STATUS OF CLAIMS

Claims 10 – 46 and 77 are canceled.

Claims 1 – 9 and 47 – 76, 78 – 80 are pending, rejected and are appealed.

(D) STATUS OF AMENDMENTS

No amendment has been filed subsequent to the final rejection.

(E) SUMMARY OF CLAIMED SUBJECT MATTER

The currently pending independent claims in this application are claims 1, 5, 52, 63, and 71. A concise explanation of each independent claim, with reference to the specification follows below.

Independent claim 1 recites:

In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

- (a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;
- (b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement;
- (c) calculating a correlation factor between said advertisement characterization and said consumer in a profiler computer system;
- (d) transmitting said correlation factor to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system; and
- (e) receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity.

With respect to independent claim 1, the claimed subject matter relates to a method for auctioning an advertisement opportunity (see page 4, lines 16-19). The method includes providing a notification of an advertisement opportunity from a content/opportunity provider computer system (see page 4, lines 24-27). The advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer (see page 25, lines 14-16). An advertisement characterization, which corresponds to an advertisement, is received from an advertiser computer system (see page 4, lines 27-30). A correlation factor is calculated

between the advertisement characterization and the consumer in a profiler computer system (see page 16, lines 6-9 and lines 32-34). The correlation factor is transmitted to the advertiser computer, prior to receiving a bid for the advertisement opportunity (see page 22, line 33 – page 23, line 2). A successful bid is received for the advertisement opportunity at the content/opportunity provider computer system (see page 23, lines 26-31). The successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity (see page 25, lines 10-19).

Independent claim 5 recites:

In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

(a) providing notification of an advertisement opportunity from a content/opportunity provider computer system to a plurality of computer systems representing advertisers, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;

(b) receiving a plurality of advertisement characterizations from said plurality of computer systems representing advertisers, wherein each of said advertisement characterizations corresponds to an advertisement;

(c) calculating a plurality of correlation factors between said advertisement characterizations and said consumer in a profiler computer system;

(d) transmitting said correlation factors to said plurality of computer systems representing advertisers prior to receiving a bid for said advertisement opportunity from said plurality of computer systems representing advertisers;

(e) receiving a plurality of bids for said advertisement opportunity at said content/opportunity provider computer system; and

(f) selecting a successful bid from said plurality of bids for said advertisement opportunity wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity.

The subject matter of independent claim 5 is similar to that of independent claim 1 described above. In claim 5, a similar process is performed for a plurality of advertisers (see page 5, lines 15-18).

Independent claim 52 recites:

In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

- (a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;
- (b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement;
- (c) calculating a correlation factor between said advertisement characterization and said consumer in a profiler computer system;
- (d) transmitting said correlation factor to said advertiser computer system; and
- (e) receiving a successful bid at said content/opportunity provider computer system, wherein said successful bid is received in response to said correlation factor being transmitted to said advertiser computer system for said advertisement opportunity and results in the transmission of said advertisement to said consumer in said advertisement opportunity.

The subject matter of independent claim 52 is similar to that of independent claim 1 described above. In claim 52, the successful bid is received in response to the correlation factor being transmitted to the advertiser computer system for the advertisement opportunity and results in the transmission of the advertisement to the consumer in the advertisement opportunity (see page 23, lines 26-31).

Independent claim 59 recites:

In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

- (a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;
- (b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement;
- (c) calculating a correlation coefficient between said advertisement characterization and said consumer in a profiler computer system;
- (d) transmitting said correlation coefficient to said advertiser computer system; and
- (e) receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity.

The subject matter of independent claim 59 is similar to that of independent claim 1 described above. In claim 59, the successful bid results in the transmission of the advertisement to the consumer in the advertisement opportunity (see page 25, lines 10-19).

Independent claim 63 recites:

In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

- (a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;
- (b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement;

- (c) calculating a correlation factor between said advertisement characterization and said consumer in a profiler computer system;
- (d) transmitting said correlation factor to said advertiser computer system; and
- (e) receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity, and wherein said bid is based on said correlation factor.

The subject matter of independent claim 63 is similar to that of independent claim 1 described above. In claim 63, the successful bid results in the transmission of the advertisement to the consumer in the advertisement opportunity and that the bid is based on the correlation factor (see page 23, lines 26-31).

Independent claim 71 recites:

In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for buying an advertisement opportunity, said method comprising:

- (a) receiving at an advertiser computer system notification of an advertisement opportunity, from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;
- (b) providing an advertisement characterization corresponding to an advertisement from said advertiser computer system to a profiler computer system;
- (c) receiving, at said advertiser computer system, from the profiler computer system, a correlation factor representing the correlation between said advertisement characterization and said consumer;
- (d) determining a bid for said advertisement opportunity; and
- (e) transmitting said bid to said content/opportunity provider.

The subject matter of independent claim 71 is similar to that of independent claim 1 described above. Claim 71 further involves a correlation factor representing the correlation

between the advertisement characterization and the consumer (see page 16, lines 23-31). This correlation factor is received at the advertiser computer system (see page 22, line 33 — page 23, line 2). A bid is determined for the advertisement opportunity and it is transmitted to the content/opportunity provider (see page 23, lines 26-31).

(F) GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are presented for review in this appeal:

- (1) Whether claims 1-8 and 47-76, 78-80 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,253,189 to Feezell et al. ("Feezell") in view of U.S. Patent No. 6,327,574 to Kramer et al. ("Kramer").
- (2) Whether claim 9 is unpatentable under 35 U.S.C. §103(a) over Feezell in view of Kramer in further view of U.S. Patent No. 5,835,896 to Fisher et al. ("Fisher").

(G) **ARGUMENT**

(1) Claim Rejection under § 103(a) over Feezell in view of Kramer

(a) Claims 1-8, 47-51, 71-76, and 78-80

The Examiner has not established a *prima facie* case for obviousness to support the rejection of claims 1-8, 47-51, 71-76, and 78-80, since Feezell in view of Kramer does not teach all elements of Applicant's claims and there is no motivation to combine these references. In particular, Feezell in view of Kramer does not teach or suggest "transmitting said correlation factor to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system; and receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity," as recited in independent claim 1.

Feezell teaches a system for completing advertising time slot transactions. The seller of a time slot identifies the slot and provides marketing and evaluation data for that time slot to assist the buyer in determining which slots to bid for, however this evaluation data is not specific to a consumer, nor does it contain a correlation factor between a consumer and advertisement. The buyer may submit a bid for a specific time slot or enter a "non-specific bid". A non-specific bid is based upon criteria not specific to a particular time slot, such as a bid that specifies a time slot with a particular viewer demographic. Feezell's system identifies whether a bid matches an available time slot. The buyer may be informed of multiple slots that match the bid and be allowed to choose which ad to purchase. If the offer terms match a time slot, then that time slot may be automatically assigned to the buyer.

Kramer characterizes consumers and products on the basis of certain behavioral attributes, formal mathematical constructs, or other characteristics. The characteristic values are represented as vectors of real numbers. A vector related to a consumer represents his interests and a vector related to a product represents the appeal of the product. Kramer teaches that the greater correlation between a consumer profile and a product profile at a given time, the greater

the expected appeal of the product to that consumer. There is no suggestion of providing such an exact measurement of correlation to the advertiser so that the advertiser can determine whether to purchase the advertisement "space."

1. Correlation Factor not Transmitted Prior to Receiving a Bid

The proposed combination of Feezell and Kramer does not teach or suggest "transmitting said correlation factor to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system." Neither Feezell nor Kramer suggests transmitting a correlation factor to the advertisement computer system prior to receiving a bid.

Feezell does teach that "information" may be provided to the buyer concerning a time slot before bidding. However this information does not include a correlation factor, much less a correlation factor between an advertisement characterization and a consumer. Rather, the information in Feezell includes "time slot offers, marketing and valuation data, historical transactions, and other data..." None of the data that is provided by Feezell is a correlation factor between a consumer and an advertisement characterization. The information in Feezell is just a generalized summary of the ad slot itself and does not convey the relationship between a particular advertisement and a consumer that the advertisement opportunity will reach.

Furthermore, the information provided in Feezell could not contain a correlation factor that conveys the relationship between a particular advertisement and a consumer because, at the time the buyer receives this information, the buyer has not yet submitted any information which could be used to calculate a correlation factor. According to Feezell, only upon the buyer actually submitting a bid does the buyer actually submit any information. Thus, in Feezell, no correlation can possibly be returned until after the bid has been submitted. Although Feezell's system does determine whether the offer terms match the bid terms of a buyer, the result of this matching is not communicated to the buyer nor is it a correlation between an ad and a consumer. Feezell simply teaches that time slots are matched according to the bid terms.

Kramer also does not teach that a correlation factor is transmitted (to the advertiser) prior to receiving a bid. Kramer is not concerned with a bidding process. Rather, Kramer is concerned with presenting the most highly correlated content. Kramer merely matches consumers to advertisements and does not allow that advertiser to receive (and utilize as he sees fit) a correlation factor. Therefore, the combination of Feezell and Kramer does not teach or suggest “transmitting said correlation factor to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system.”

2. Overstatement of the Teachings

In his rejection of claim 1, the Examiner relies upon Feezell to teach or suggest all portions of claim 1, except for “the use of a correlation factor” (page 4, Final Office Action). Applicant respectfully submits that this reliance is unfounded. It is impossible for a reference to teach the calculating of a correlation factor without disclosing the use of a correlation factor. The Examiner admits that “Feezell et al. does not explicitly disclose the use of a correlation factor.” (see Final Office Action, page 4) Such impermissible overstatements of the teachings of the references by the Examiner yield a faulty case for obviousness.

i. Feezell does not Teach an Advertisement Characterization

Claim 1 recites “calculating a correlation factor between said advertisement characterization and said consumer.” In order to teach calculating a correlation factor between an advertisement characterization and a consumer, a reference must teach the use of an advertisement characterization. However, Feezell does not utilize an “advertisement characterization.” The Examiner may contend that in Feezell the ability of the advertiser to submit non-specific bids necessitates the use of an ad characterization. However, a non-specific bid as taught by Feezell, cannot be an advertisement characterization as recited in claim 1, since aspects (c) and (d) specify that the advertisement characterization is used in a correlation calculation before a bid is received. Since Feezell discloses a “non-specific bid,” it is impossible to provide a correlation factor calculated from the “non-specific bid” (as recited in Feezell) “prior

to receiving a bid” (as recited in claim 1). In Feezell, the buyer is only identified as submitting bids and not “advertisement characterizations.” Therefore, the Examiner’s contention that Feezell teaches the correlation factor as claimed in claim 1, overstates of the teachings of Feezell.

ii. Information Transmitted by Feezell is not a Comparison of a Consumer and an Advertisement Characterization

The Examiner again overstates the teachings of Feezell when the Examiner contends that Feezell teaches “transmitting said correlation factor to said advertiser computer system.” Applicant respectfully points out that the correlation factor in claim 1 is between an advertisement characterization and a consumer. The Examiner argues that Feezell teaches the use of “valuation data, weight factor and correlations,” (page 4, Office Action). Simply teaching the usage of these techniques alone cannot be said to teach “transmitting said correlation factor to said advertiser computer system.” The “valuation data” described in Feezell is not a result of comparing an advertisement characterization with a consumer so therefore it cannot be the correlation factor recited in claim 1.

Moreover, the “correlation” described by Feezell is between marketing information and “program and time slot information,” not between a consumer and an advertisement characterization as described in claim 1. The valuation data in Feezell does not even enable the buyer to know how closely his non-specific bid correlates or compares to an advertising slot. The teaching of a correlation factor, generally, in a reference does not render the usage of all correlation factors obvious. Therefore, since the correlation factor suggested by Kramer has is entirely different from the correlation factor of claim 1, when Kramer’s correlation factor is incorporated into the system of Feezell, the resulting combination does not yield all aspects of claim 1.

Claim 1 recites “calculating a correlation factor between said advertisement characterization and said consumer...transmitting said correlation factor to said advertiser computer system prior to receiving a bid for said advertisement opportunity...” In Feezell, any

information transmitted is not specific to the advertisement characterization and the consumer corresponding to the advertisement. Therefore, in order for the combination of Feezell and Kramer to teach all aspects of claim 1, Kramer would have to teach or suggest calculating such a correlation and transmitting that correlation. Kramer does not. Since the Examiner's rejection rests on such fallacies, his case for obviousness fails.

3. Feezell does not Receive an Advertisement Characterization

As is clear from the above discussion, Feezell cannot be said to teach "receiving an advertisement characterization," as recited in claim 1, since that advertisement characterization must be available to calculate a correlation before a bid is received. It follows that the notion of providing an advertiser with a correlation of his advertisement characteristics to characteristics of a consumer related to the advertisement opportunity is also not found in either of the references nor their combination.

The Examiner argues that "It would be obvious to a skilled artisan that all the pertinent information are received prior to making a bid in order to effectively determine opportunity and optimize the decision making process." In other words, the Examiner contends that providing any "pertinent information" to an advertiser is obvious to one skilled in the art, regardless of how the information is generated or where it comes from. Clearly, this is an overstatement of the teachings of the references and the combination thereof. The Examiner fails to acknowledge that there is a difference between providing the valuation information that Feezell teaches, and the correlation factor that is customized according to the advertisement characterization submitted by the advertiser. Feezell's valuation information is simply generalized information, whereas claim 1 recites a correlation factor specific to the advertisement characterization and the consumer to which the advertisement opportunity corresponds. Moreover, the combination of Feezell and Kramer will not render claim 1 obvious, since the references do not teach or suggest supplying such specific information, in terms of the correlation between the consumer and the advertisement, to the advertiser.

4. No Motivation to Combine; Combination Changes the Principle of Operation of the Primary Reference

The proposed modification of Feezell with Kramer would change the principle of operation of the primary reference, and therefore, the two references are not properly combinable. As the Examiner is well aware, “if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” See *In re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349 (C.C.P.A. 1959); MPEP § 2143.01. The systems of Feezell and Kramer are incompatible and not interchangeable because they work on different paradigms, with Feezell matching “non-specific” bids with time slots, while Kramer matches consumers to content. In other words, Feezell provides “a method for completing advertising time slot transactions,” (abstract) whereas Kramer provides for “selecting the variable content alternatives encoded in the structured documents that most closely match the consumer’s profile” (abstract).

Since Feezell does not disclose submitting an advertisement characterization before bidding, the addition of Kramer would cause a significant change to the described function of Feezell. If the two references were combined, in addition to incorporating a correlation factor, a submission of an advertisement characterization -undisclosed in either reference- would be needed. Furthermore, the individual consumer granularity offered by Kramer would likely require a substantial redesign of the system of Feezell. Since this would require changes to the principle of operation of Feezell, Feezell and Kramer are not properly combinable.

Since there is no motivation to combine Feezell and Kramer and, even if the combination is proper, it does not teach all aspects of independent claim 1, independent claim 1 is believed to be patentable over the proposed combination of Feezell and Kramer.

Independent claim 5, recites “transmitting correlation factors” “prior to receiving a bid for said advertisement opportunity from said plurality of computer systems representing advertisers.” As discussed above, such combination does not teach or suggest transmitting correlation factors

prior to receiving bids. Thus, independent claim 5 is believed to be patentable over the proposed combination.

Independent claim 71 recites “receiving at an advertiser computer system notification of an advertisement opportunity, from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer.” As discussed above in relation to claim 1, the proposed combination of Feezell and Kramer does not teach or suggest this feature. Thus, independent claim 71 is believed to be patentable over the proposed combination.

In view of the foregoing, Applicants respectfully submit that the combination of Feezell and Kramer is improper since there is no motivation to combine them and such a combination would require a fundamental change in operation of the primary reference. Even assuming the references were properly combinable, which they are not, all features of the claims would still not be taught by the combination. Therefore, the Examiner has not met the burden of prima facie obviousness. Accordingly, for the reasons detailed herein, independent claims 1, 5, and 71, and all claims dependent thereon, including claims 2-4, 6-9, 47-51, 72-76, and 78-80, are allowable over the combination of Feezell and Kramer.

(b) Claims 52-56 and 58

Independent claim 52 recites “providing notification of an advertisement opportunity...an opportunity to transmit an advertisement to a consumer,” and that a “successful bid is received in response to said correlation factor being transmitted.” As discussed above, there is no motivation to combine Feezell and Kramer, and even if the proposed combination of Feezell and Kramer is proper, such combination does not teach or suggest “providing notification of an advertisement opportunity...an opportunity to transmit an advertisement to a consumer.” Additionally, the proposed combination does not teach or suggest that a “successful bid is received in response to said correlation factor being transmitted.” In Feezell, a bid is submitted before the offer terms of the bid are compared to the offer terms of the seller. Furthermore, as discussed above, valuation

data is not a correlation factor nor does Kramer (alone or in combination with Feezell) teach or suggest receiving a bid “in response to said correlation factor being transmitted.” Thus, independent claim 52 is believed to be patentable over the proposed combination because there is no motivation to combine Feezell and Kramer and even if the combination is proper, it does not teach all aspects of independent claim 52.

For the reasons set forth above, the Examiner has not established a *prima facie* case of obviousness with respect to claims 52-56 and 58. Thus, the same arguments with respect to no motivation to combine Feezell and Kramer, changing the principle of operation of Feezell, and the failure of such combination to teach all elements of the claims are applicable to dependent claims 53-56 and 58. Accordingly, claims 53-56 and 58 are believed to be allowable at least by their dependency on independent claim 52.

(c) Claim 57

The Examiner has also failed explain how the combination of Feezell and Kramer teaches all aspects of dependent claim 57. Applicant submits that claim 57 is patentable for at least the same reasons as independent claim 52. Furthermore, the Examiner argues that the proposed combination of Feezell and Kramer “do not explicitly disclose wherein the value of said successful bid is dependent on the correlation factor transmitted in step (d),” and that Feezell “discloses the successful bid is based on the valuation data,” (Office Action, page 15). The Examiner does not explain how valuation data is equivalent to a correlation factor or how the bid in Feezell depends on the valuation data. Feezell does not describe what valuation data is. However, it is clear from Feezell that valuation data is not a correlation factor because at the time the valuation data is provided to the buyer, the buyer has submitted no information that could be correlated or even compared. Thus, claim 57 is believed to be patentable over the proposed combination because there is no motivation to combine Feezell and Kramer and even if the combination is proper, it does not teach all aspects of claim 57.

(d) Claims 63-70

Independent claim 63 recites “providing notification of an advertisement opportunity...an opportunity to transmit an advertisement to a consumer,” and “wherein said bid is based on said correlation factor.” As discussed above, the proposed combination of Feezell and Kramer does not teach or suggest recites “providing notification of an advertisement opportunity...an opportunity to transmit an advertisement to a consumer.” Additionally, the proposed combination does not teach or suggest that “said bid is based on said correlation factor.” In Feezell, a bid is submitted before the offer terms of the bid are compared to the offer terms of the seller and therefore could not be based on the correlation factor. Furthermore, as discussed above, valuation data is not a correlation factor nor does Kramer (alone or in combination with Feezell) teach or suggest receiving a bid “wherein said bid is based on said correlation factor.” Thus, independent claim 63 is believed to be patentable over the proposed combination because there is no motivation to combine Feezell and Kramer and even if the combination is proper, it does not teach all aspects of independent claim 63.

For the reasons set forth above, the Examiner has not established a *prima facie* case of obviousness with respect to claims 64-70. Thus, the same arguments with respect to no motivation to combine Feezell and Kramer, changing the principle of operation of Feezell, and the failure of such combination to teach all elements of the claims are applicable to dependent claims 64-70. Accordingly, claims 64-70 are believed to be allowable at least by their dependency on independent claim 63.

(2) Rejection under § 103(a) over Feezell in view of Kramer in further view of Fisher

(a) Claim 9

Dependent claim 9 has been rejected under 35 U.S.C. § 103 as being unpatentable over Feezell in view of Kramer in further view of U.S. Patent No. 5,835,896 to Fisher et al. (“Fisher”).

Fisher does not teach or suggest any of the aspects missing from the proposed combination of Feezell and Krammer. Therefore independent claim 5 is believed to be patentable over the combination of Feezell, Krammer, and Fisher. Dependent claim 9 is believed to be allowable at least by its dependency on independent claim 5. Reconsideration and withdrawal of the Examiner's rejection of claim 9 are respectfully requested.

Conclusion

For the reasons set forth above, Applicants submit that the rejection of claims 1-9 and 47-76, 78-80 is in error, and that the application, including claims 1-9 and 47-76, 78-80 is in condition for allowance. Accordingly, Applicants respectfully request that the Board reverse the Examiner's rejections of claims 1-9 and 47-76, 78-80 and remand this application for issue.

(H) CLAIMS APPENDIX.

The claims involved in this appeal, including amendments after final entered by the Examiner, are as follows:

1. In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising

(a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;

(b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement;

(c) calculating a correlation factor between said advertisement characterization and said consumer in a profiler computer system;

(d) transmitting said correlation factor to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system; and

(e) receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity.

2. The method described in claim 1 wherein said advertisement characterization is in the form of an ad characterization vector, said consumer is represented by a consumer characterization vector, and said correlation factor in step (c) is calculated as the scalar product between said ad characterization vector and said consumer characterization vector.

3. The method described in claim 2 wherein said consumer characterization vector contains a demographic characterization of said consumer and wherein said ad characterization vector contains a demographic characterization of the target market for said advertisement.

4. The method described in claim 2 wherein said consumer characterization vector contains a product preference characterization of said consumer and wherein said ad characterization vector contains a product preference target market for said advertisement.

5. In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

(a) providing notification of an advertisement opportunity from a content/opportunity provider computer system to a plurality of computer systems representing advertisers, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;

(b) receiving a plurality of advertisement characterizations from said plurality of computer systems representing advertisers, wherein each of said advertisement characterizations corresponds to an advertisement;

(c) calculating a plurality of correlation factors between said advertisement characterizations and said consumer in a profiler computer system;

(d) transmitting said correlation factors to said plurality of computer systems representing advertisers prior to receiving a bid for said advertisement opportunity from said plurality of computer systems representing advertisers;

(e) receiving a plurality of bids for said advertisement opportunity at said content/opportunity provider computer system; and

(f) selecting a successful bid from said plurality of bids for said advertisement opportunity wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity.

6. The method described in claim 5 wherein said advertisement characterization is in the form of an ad characterization vector, said consumer is represented by a consumer characterization vector, and said correlation factor in step (c) is calculated as the scalar product between said ad characterization vector and said consumer characterization vector.

7. The method described in claim 6 wherein said consumer characterization vector contains a demographic characterization of said consumer and wherein said computer readable ad characterization vector contains a demographic characterization of the target market for said advertisement.

8. The method described in claim 6 wherein said consumer characterization vector contains a product preference characterization of said consumer and wherein said computer-readable ad characterization vector contains a product preference target market for said advertisement.

9. The method described in claim 5 wherein the selecting of said successful bid in step (f) is based on the highest bid of said plurality of bids.

10 - 46. (canceled)

47. The method of claim 1, wherein said correlation factor represents the degree of similarity between said advertisement and said consumer.
48. The method of claim 1, wherein said correlation factor is non-Boolean.
49. The method of claim 1, wherein said correlation factor is a gradation of the correlation between said advertisement characterization and said consumer.
50. The method of claim 1, wherein the value of said successful bid is based on the correlation factor transmitted in step (d).
51. The method of claim 1, wherein said correlation factor is decimal.
52. In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:
- (a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;
 - (b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement;
 - (c) calculating a correlation factor between said advertisement characterization and said consumer in a profiler computer system;

(d) transmitting said correlation factor to said advertiser computer system; and

(e) receiving a successful bid at said content/opportunity provider computer system, wherein said successful bid is received in response to said correlation factor being transmitted to said advertiser computer system for said advertisement opportunity and results in the transmission of said advertisement to said consumer in said advertisement opportunity.

53. The method of claim 52, wherein said correlation factor is transmitted to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system.

54. The method of claim 52, wherein said correlation factor represents the degree of similarity between said advertisement and said consumer.

55. The method of claim 52, wherein said correlation factor is non-Boolean.

56. The method of claim 52, wherein said correlation factor is a gradation of the correlation between said advertisement characterization and said consumer.

57. The method of claim 52, wherein the value of said successful bid is dependent on the correlation factor transmitted in step (d).

58. The method of claim 52, wherein said correlation factor is decimal.

59. In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

(a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;

(b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement;

(c) calculating a correlation coefficient between said advertisement characterization and said consumer in a profiler computer system;

(d) transmitting said correlation coefficient to said advertiser computer system; and

(e) receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity.

60. The method of claim 59, wherein said correlation coefficient represents the degree of similarity between said advertisement and said consumer.

61. The method of claim 59, wherein said correlation factor is transmitted to said advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system.

62. The method of claim 59, wherein said correlation coefficient is decimal.

63. In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for auctioning an advertisement opportunity, said method comprising:

(a) providing notification of an advertisement opportunity from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;

(b) receiving an advertisement characterization from an advertiser computer system, wherein said advertisement characterization corresponds to an advertisement;

(c) calculating a correlation factor between said advertisement characterization and said consumer in a profiler computer system;

(d) transmitting said correlation factor to said advertiser computer system; and

(e) receiving a successful bid for said advertisement opportunity at said content/opportunity provider computer system, wherein said successful bid results in the transmission of said advertisement to said consumer in said advertisement opportunity, and wherein said bid is based on said correlation factor.

64. The method of claim 63, wherein said bid is calculated by said advertiser computer system using said correlation factor.

65. The method of claim 63, wherein said correlation factor is transmitted to the advertiser computer system prior to receiving a bid for said advertisement opportunity from said advertiser computer system.

66. The method of claim 63, wherein said correlation factor represents the degree of similarity between said advertisement and said consumer.

67. The method of claim 63, wherein said correlation factor is non-Boolean.

68. The method of claim 63, wherein said correlation factor is a gradation of the correlation between said advertisement characterization and said consumer.

69. The method of claim 63, wherein said correlation factor may be described by more than two values.

70. The method of claim 63, wherein said correlation factor is a decimal.

71. In a networked environment having a plurality of computer systems interconnected for the purpose of transmitting and receiving data, a method for buying an advertisement opportunity, said method comprising:

(a) receiving at an advertiser computer system notification of an advertisement opportunity, from a content/opportunity provider computer system, wherein said advertisement opportunity corresponds to an opportunity to transmit an advertisement to a consumer;

(b) providing an advertisement characterization corresponding to an advertisement from said advertiser computer system to a profiler computer system;

(c) receiving, at said advertiser computer system, from the profiler computer system, a correlation factor representing the correlation between said advertisement characterization and said consumer;

(d) determining a bid for said advertisement opportunity; and

(e) transmitting said bid to said content/opportunity provider.

72. The method of claim 71, wherein said determining is based at least in part on said correlation factor.

73. The method of claim 71, further comprising:

(f) receiving a notification that said bid was successful.

74. The method of claim 71, wherein said correlation factor represents the degree of similarity between said advertisement and said consumer.

75. The method of claim 71, wherein said correlation factor is a gradation of the correlation between said advertisement characterization and said consumer.

76. The method of claim 71, wherein said correlation factor is decimal.

77. (canceled)

78. The method of claim 5, wherein each of said plurality of correlation factors represents the degree of similarity between the corresponding advertisement and said consumer.

79. The method of claim 5, wherein each of said plurality of correlation factors is a gradation of the correlation between each corresponding advertisement characterization and said consumer.

80. The method of claim 5, wherein each of said plurality of correlation factors is decimal.

(I) EVIDENCE APPENDIX

None.

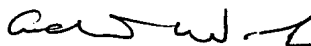
(J) **RELATED PROCEEDINGS APPENDIX**

None.

Respectfully submitted,

Date:

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